This document is scheduled to be published in the
Federal Register on 03/10/2022 and available online at
federalregister.gov/d/2022-05040, and on **govinfo.gov**

[Docket No. FR-6277-N-02]

Fair Market Rents for the Housing Choice Voucher Program, Moderate Rehabilitation Single Room Occupancy Program, and Other Programs Fiscal Year 2022; Revised

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Revised Fiscal Year (FY) 2022 Fair Market Rents (FMRs) and Discussion of Comments on FY 2022 FMRs.

SUMMARY: This notice updates the FY 2022 FMRs for 12 areas based on new survey data. Further, HUD responds to comments received on the FY 2022 FMRs.

DATES: Applicable Date: The revised FY 2022 FMRs for these 12 areas are applicable on [**Insert 30 days after publication date]**.

FOR FURTHER INFORMATION CONTACT: Questions related to use of FMRs or voucher payment standards should be directed to the respective local HUD program staff. For technical information on the methodology used to develop FMRs or a listing of all FMRs, please call the HUD USER information line at 800-245-2691 (toll-free), email the Program Parameters and Research Division via pprd@hud.gov, or access the information on the HUD USER website: http://www.huduser.gov/portal/datasets/fmr.html.

SUPPLEMENTARY INFORMATION: On August 6, 2021, HUD published the FY 2022 FMRs, requested comments on the FY 2022 FMRs, and outlined procedures for requesting a reevaluation of an area's FY 2022 FMRs (86 FR 43260). This notice revises FY 2022 FMRs for 12 areas based on data provided to HUD. In addition to providing revised FY 2022 FMRs, this notice also provides responses to the public comments HUD received on the notice referenced above.

I. Revised FY 2022 FMRs

The FMRs appearing in the following table supersede the use of the FY 2021 FMRs for the twelve areas that provided statistically valid data. The updated FY 2022 FMRs are based on surveys conducted by the area public housing agencies (PHAs) and reflect the estimated 40th percentile rent levels trended to Fiscal Year 2022.

The FMRs for the affected areas are revised as follows:

	FMR by Number of Bedrooms in Unit				
2022 Fair Market Rent Area	**0 BR**	**1 BR**	**2 BR**	**3 BR**	**4 BR**
Abilene, TX MSA	$688	$732	$945	$1,288	$1,598
Asheville, NC HUD Metro FMR Area	$1,188	$1,209	$1,378	$1,879	$2,359
Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area	$1,803	$1,986	$2,399	$2,966	$3,253
Bremerton-Silverdale, WA MSA	$1,174	$1,368	$1,765	$2,435	$2,909
Iron County, UT	$615	$757	$926	$1,268	$1,585
New York, NY HUD Metro FMR Area	$2,018	$2,054	$2,340	$2,952	$3,173
Portland, ME HUD Metro FMR Area	$1,143	$1,330	$1,721	$2,195	$2,689
Portland-Vancouver-Hillsboro, OR-WA MSA	$1,416	$1,512	$1,735	$2,451	$2,903
San Diego-Carlsbad, CA MSA	$1,573	$1,739	$2,232	$3,099	$3,795
Santa Maria-Santa Barbara, CA MSA	$1,875	$2,157	$2,516	$3,316	$3,790
Seattle-Bellevue, WA HUD Metro FMR Area	$1,674	$1,739	$2,044	$2,796	$3,285
Transylvania County, NC	$706	$711	$935	$1,156	$1,364

HUD has published these revised FMR values on the HUD USER website at: http://www.huduser.gov/portal/datasets/fmr.html. HUD has also updated the FY 2022 Small Area FMRs (SAFMRs) for metropolitan areas with revised FMRs, which may be found at https://www.huduser.gov/portal/datasets/fmr/smallarea/index.html. HUD has also updated the 50th percentile rents for all FMR areas, which are published at http://www.huduser.gov/portal/datasets/50per.html.

II. Public Comments on FY 2021 FMRs

This summary of comments addresses the most significant concerns raised by the commenters. Commenters are identified in the summary by the last four numbers of the electronic rulemaking number used at www.regulations.gov.

The public comment period for the August 6, 2021, notice closed on September 30, 2021, and HUD received 99 distinct comments relating to the notice. The comments were from housing authorities, community development agencies, homeless shelters, healthcare providers, social workers, counselors, and nonprofit social service providers.

Concerns regarding the accuracy of the current FMR methodology

Commenters noted concerns with the methodology used to calculate the FMRs in light of rapid changes in housing costs. One commenter stated that the current FMR calculations are inadequate for rural counties because it is often difficult to gather valid data in rural counties, and the use of contiguous county data may not accurately reflect the rates present within the jurisdiction and suggested that HUD should develop a methodology that would accurately reflect the FMRs for rural areas. Another commenter noted that HUD's use of the 40th percentile in calculating FMR rates limits the available housing to individuals in the voucher plans.

Other commenters stated that the use of the 2019 American Community Survey (ACS) data does not adequately represent a tightening rental market, even if the survey was an accurate representation of the FMR in previous years. Commenters stated that using current local data from reliable sources would more accurately reflect the changes in the rental market since 2019. One commenter suggested that HUD use commercial data to calculate the FMRs, as the data may be more up-to-date and accurately reflect the individual markets and would ensure that the gross rent data used in the calculation is accurate to current markets, which the commenter stated would prove more effective than HUD's previous research into the trend factor. Another commenter supported HUD's previously announced intent to explore alternative methodologies for FMR calculation. One commenter supported their jurisdiction's FMR value.

HUD Response: HUD's current regulations require it to set the FMR at the 40^{th} percentile rent paid by recent movers. Assessing the accuracy of FMRs is difficult because at any given time the true 40^{th} percentile rent paid by recent movers is unknown. Commercial sources of rent data do not provide an estimate of the 40^{th} percentile rent paid by recent movers, and what data they do provide are often not based on the entirety of the rental market, such as by building type or by geographic area. Survey-based estimates of rent are subject to sampling and non-sampling error. For the Voucher program, HUD's policy addresses these sources of uncertainty by allowing the payment standard to be set from 90-110 percent of the FMR, as well as above 110 percent of the

FMR through the use of exception payment standards. HUD has provided for expedited waivers of payment standard regulation per PIH Notice 2021-34. HUD remains committed to continually assessing its FMR calculation methodology to attempt to deal with its inherent challenges, through both in-house research and working with external research partners.

Small Area FMR Determinations

A commenter stated that the Small Area Fair Market Rent (SAFMR) calculations do not adequately represent the true market rent, citing as an example a significant decrease in a county's SAFMR in one ZIP Code despite being a high opportunity area. The commenter noted that the 2-bedroom SAFMR for the ZIP Code in question was nearly $1000 below surrounding ZIP Codes, while other ZIP Codes in their jurisdiction more accurately reflect existing local commercial data on current market prices. The commenter also noted that the decreased SAFMR for a one-bedroom in this ZIP Code is $200 less than the fair market rent established by a HUD validated rent comparability study of the same area from 2019. The commenter stated that a decrease in the SAFMR would defeat the intent of calculating fair market rents for specific ZIP Codes.

A commenter opposed allowing certain jurisdictions to opt out or be excluded from SAFMR mandates. Commenters noted that the use of excepted payment standards, rather than calculating SAFMR for the areas, leaves PHAs without the resources and flexibility to adjust to increasing rents in the jurisdictions, reducing the availability of affordable housing options to voucher holders. Commenters stated that voucher holders are being pushed into low-rent areas in jurisdiction that have received an exception payment standard, and that residents are not receiving reasonable accommodations because reasonable accommodations are based on the metro area's FMR, not the exceptionally high local rental rates that justified the excepted payment standards, and therefore do not provide any value.

HUD Response: Calculating SAFMRs poses the same challenges as metropolitan-level FMRs, with the added difficulty of greater uncertainty found in ZIP Code-level rent estimates due to their smaller size. HUD will continue to carefully consider how any future changes to its FMR calculation affect Small Area FMRs, as well as explore any SAFMR-specific methodology changes.

HUD remains committed to evaluating the operation of the Housing Choice Voucher program in areas that are required to set payment standards based on Small Area FMRs.

Concerns regarding the FMR reevaluation process

Commenters raised concerns about the current reevaluation process for FMRs. Commenters noted that the reevaluation surveys require a significant amount of time and funding and stated that HUD should provide funding for PHAs who elect to provide local rent surveys. A commenter suggested that address-based mail surveys could be conducted at a lower cost than HUD anticipates, and that a yearly allocation of $5,000 to each PHA would allow PHAs to conduct the necessary reevaluation surveys.

One commenter noted that rural PHAs are often unable to meet the regulatory requirements for reevaluation surveys. The commenter noted that although small, nonmetro counties may conduct surveys with one or more contiguous nonmetro county to obtain a sufficient number of results, this methodology does not provide many options to rural counties that face lower FMRs than neighboring counties. Furthermore, this commenter noted that rural PHAs often do not have the necessary capacity to conduct an in-house survey or the funds to hire outside consultants. The commenter noted their previous request for reevaluation in fiscal year 2021 cost the PHA over $27,000 and was ultimately rejected by HUD as they only received 13 valid responses in a county of 34,000 people. As a result, this commenter stated that FMRs may continue to be inaccurate even if the PHA attempts to request reevaluation if the jurisdiction's PHA is unable to conduct a valid survey.

***HUD Response*:** HUD is committed to working with PHAs who are interested in conducting local rental market surveys, and has accepted surveys and issued revised FMRs for small non-metropolitan counties numerous times. Surveys and data collection are often inherently expensive, and their costs are beyond HUD's control. In addition, HUD's ability to provide funds to PHAs for local rental market surveys is dependent on the availability of funds and their authorized uses specified in annual appropriations statutes.

Requests for additional flexibilities in PHA implementation

A commenter stated that HUD has additional authority under the CARES Act to implement a "hold harmless policy" for FMRs in areas that experienced significant FMR reductions. This waiver would be in light of the additional challenges created by the COVID-19 pandemic and would be limited to PHAs that experienced a significant FMR decrease that could not be accounted for through the existing flexibilities in payment standards. The commenter noted that the waiver would be aimed at increasing depressed voucher utilization rates.

Another commenter suggested that increased flexibilities for payment standards should be implemented through permanent statutory changes. This would include allowing PHAs to utilize payment standards between 80 and 120 percent of the FMR, with up to 130 percent available as a reasonable accommodation for a person with a disability and would ultimately reduce the burden of inaccurate FMRs for PHAs.

Another commenter requested authorization to increase their jurisdiction's payment standards to 120 percent or greater for all SAFMRs in their jurisdiction. The commenter also requested that all ZIP Codes be grouped under one payment standard to reduce administrative burdens on the PHA. The commenter stated that this flexibility would provide additional access to safe housing in high opportunity areas for voucher holders.

HUD Response: Declines in FMR are limited by regulation to 10 percent. Additionally, at the PHA's discretion, they may "hold harmless" any in-place household from a payment standard reduction. Requests for exception payment standards should be made to local HUD Field Offices. PHAs operating under Small Area FMRs may group ZIP Codes into one payment standard area as long as the combined payment standard is within 90-110 percent of the Small Area FMR.

The ability of PHAs to respond to rent increases and FMR changes through the use of payment standards

Commenters noted that PHAs can adjust payment standards within statutory limits to provide voucher holders access to units above the FMRs, thus increasing voucher utilization. However, many commenters stated that their jurisdictions were already using the statutory maximum payment standard of 110 percent but continue to face challenges in finding units for voucher holders, with PHAs continuing to experience decreasing success rates. For example, one commenter noted that available units in their jurisdiction are listed at 127 percent to 175 percent of the proposed FMR, beyond the statutory flexibilities that PHAs have without HUD approval. Another commenter noted that a lack of available units in their jurisdiction within the statutory payment standard has caused some one-bedroom voucher holders to rent single room units within the payment standards instead.

Commenters also noted that using payment standards to adjust for insufficient FMRs is limited by its effect on individuals with fixed incomes or the PHA's ability to provide reasonable accommodations. One commenter noted that adjusting their jurisdiction's payment standards in response to an FMR decrease would greatly increase the rent burden for residents that depend on fixed Social Security or SSI Payments, as cost of living increases in those programs are much lower than the rise in rent. Other commenters noted that the use of excepted payment standards for high-rent areas also limits the availability of reasonable accommodations for individuals with disabilities, and accommodations may actually lower the value of vouchers in some cases if the FMR is insufficient for the area.

HUD Response: PHAs have a variety of options beyond setting payment standards at 110 percent of the FMR. PHAs may pursue exception payment standards above 110 percent of FMR, including through the expedited waiver process described in PIH Notice 2021-34. PHAs may apply for success rate payment standards, which allow for setting payment standards using the 50th percentile estimates of rent. PHAs may, with HUD approval, establish an exception payment standard of more than 120 percent of the published FMR if required as a reasonable accommodation in accordance with 24 CFR part 8 for a family that includes a person with a disability after approval from HUD. Finally, PHAs may adopt Small Area FMRs (or use Small Area FMRs as the basis for exception payment standards), which may allow for payment standards of up to 160 percent of the metropolitan FMR in high-rent ZIP Codes.

Market factors affecting the supply of units at FMR levels

Commenters noted that the current housing market is competitive. Commenters stated that the rental market for voucher holders is already somewhat limited by the 40th percentile limitations on the program, and a lack of available units for rent has driven rising rent prices. Commenters noted that units are being converted to short term rentals, affected by the impact of natural disasters, or utilized by new residents or temporary college students. This lack of available units can be further complicated by the needs of voucher holders, as a commenter noted necessary features can drive rent prices above the FMRs. Even when the vouchers are sufficient to meet rent, a commenter stated that landlords may choose to rent the limited supply to residents with the best credit and rental histories, further increasing competition within the market.

Commenters also noted that increasing rents have limited voucher holders' housing options due to insufficient FMR rates. When FMR rates are below the current market rates, voucher holders face significant difficulty in finding units within the allowed range. A commenter noted that rent has increased in their jurisdiction by an average of 9.7 percent, while another noted that rent has been consistently rising in the three years since the 2019 ACS survey. A commenter noted that increases in rent prices are not being met by increased wages, while another commenter noted that their jurisdictions have experienced rapid job growth in the area, leading to increased demand and higher prices. One commenter noted that the FMRs in their jurisdiction leave little to no room for the utility allowance, limiting the available options further.

Other commenters stated that the recent end of rent moratoriums imposed by states in response to COVID-19 will result in rapidly increasing rents. Commenters noted that the FMR methodology may not fully capture these recent changes in rent prices, leaving voucher holders with reduced options at the FMR level.

Commenters also noted that landlords are unwilling to accept vouchers as the FMRs are below the rates they can receive on the open market, which further reduces voucher holders' options and drives up competition for the remaining units. Commenters noted that landlords' costs of operation, including taxes, insurance, and repair prices, are increasing, forcing landlords to prioritize the higher rates available on the open market and reducing the number of single-family rental units available to voucher holders. Another commenter stated that while they would be interested in accepting voucher holders, the current market rates in their jurisdiction are between 52 and 123 percent higher than the FMR. Furthermore, a commenter stated that a decrease in FMR for their jurisdiction could harm their existing efforts to address landlord concerns, which could result in landlords leaving the program before PHAs have the chance to resolve previously existing concerns.

HUD Response: As noted earlier, HUD is committed to continuously evaluating its FMR calculation methodology, including considering the implications for areas with rapidly rising rents. HUD recognizes the interaction of the level of FMR on landlords' decisions to accept Housing Choice Vouchers; at the same time, research shows that a variety of factors influence landlord participation in the program. HUD's setting the FMR at the 40th percentile of rents means that by definition a large portion of rental units in any given area will not be available to voucher holders, reflecting HUD's desire to provide a modest unit for low-income families and maximize the number of families served by HUD's limited funds.

Insufficient or decreasing FMRs impose hardships

Commenters noted that FMRs that decrease or fail to keep up with market rents would result in significant hardships for families and individuals as the insufficient value would limit the available units for voucher holders, would require great effort to find units even from voucher holders who are able to find units, and would limit the ability of voucher holders to enter new jurisdictions. Commenters noted that voucher holders face competition from residents with better credit and rental history, require accommodations, or face additional financial pressure and burdens from market inflation and disasters, such as the COVID-19 pandemic.

Commenters noted that PHAs are facing decreasing success rates with vouchers at the current FMR rates and that additional decreases or gaps between the FMR and market rates could further depress success rates, leaving more voucher holders homeless. Commenters stated that landlords are no longer accepting vouchers and are choosing not to renew voucher holders' leases. One commenter also noted that additional COVID-19 response fundings allocated to PHAs may remain unused if PHAs continue to face decreasing success rates from below-market FMRs. One commenter further noted that this has led to almost a 10 percent increase in rent burdened households since 2019 and has led to PHAs being unable to realize their full administrative fee potential.

Commenters also noted that limited availability of units or insufficient FMRs can put a strain on homeless shelters and nonprofits, as voucher holders may rely on these services when they face difficulty using their vouchers. Some commenters also expressed concern that PHAs have already raised payment standards to the statutory maximum but remain unable to meet market rates due to the FMRs. Furthermore, many commenters stated that decreasing FMRs will increase the burden on voucher holders and PHAs and could lead to increased housing instability or homelessness. One commenter noted that additional vouchers issued under the CARES Act to homeless populations are facing lower success rates due to a decrease in single-bedroom FMRs for their jurisdiction, as the target population of the CARES Act vouchers primarily needs one-bedroom units. As a result, many commenters called for FMRs to increase this year.

HUD Response: As noted elsewhere, PHAs are not required to reduce the payment standard for in-place tenants in response to declining FMRs, and PHAs with declining voucher success rates have a variety of options for setting higher payment standards. HUD acknowledges the many hardships that low-income household face, as well as challenges faced by PHAs and other partners in working with HUD to accomplish its mission. Having an accurate FMR is often critical to helping address these challenges, and as previously discussed, HUD is committed to its ongoing evaluation of its FMR calculation. At the same time, the FMR itself cannot solve all the problems associated with keeping low-income families housed and preventing homelessness, particularly those arising from a low supply of housing in general.

The impact of COVID-19 and other disasters may not be accurately reflected in the FMRs

Commenters noted that the COVID-19 pandemic has greatly affected the housing market, leading to potentially inaccurate FMRs for Fiscal Year 2022. Commenters stated that the pandemic has worsened an existing housing crisis by increasing rents and decreasing affordable housing supply, leading to rapidly increasing rental prices. One commenter stated that recent data shows average rents have increased 9.4 percent on average since March 2020, with anecdotal evidence pointing to more drastic increases in recent months. Commenters also stated that the nature and impact of the pandemic requires additional steps to keep people in their homes, while PHAs need additional support and resources to respond to additional burdens imposed by the pandemic. Some commenters noted that the expiration of state rent moratoriums will artificially affect the calculation of FMRs, as landlords will begin raising rents after the moratoriums expire. This would result in voucher holders facing difficulty in finding units within the FMRs calculated prior to the end of the moratorium.

Other commenters noted that the COVID-19 pandemic has driven population changes in certain areas, as higher-income new residents purchase units that would otherwise be available as rental units. This decrease in the supply of rental units has driven up rent prices, which the FMR methodology may not be able to account for without updated local data.

Commenters also noted that other disasters have contributed to limited housing supply, such as floods and hurricanes. These disasters can limit the housing supply through permanent or temporary damage to units, ultimately driving prices up due to both increased demand from displaced residents and decreased supply. For example, one commenter noted that flooding in their jurisdiction affected over 700 homes, increasing an existing deficit in affordable units.

HUD Response: The COVID-19 pandemic has caused widespread volatility in the U.S. economy, including in many of the nation's rental markets. Similarly, natural disasters often cause major consequences to housing markets of the areas they affect. In calculating FMRs, HUD is limited by the availability of data and its requirement to calculate FMRs using the current methodology. HUD is committed to evaluating the ongoing impacts of these disasters and adjusting its policies as needed to meet its mission.

Requests for Reevaluations

Commenters submitted valid requests for reevaluation for 28 FMR areas, as well as 10 requests that did not meet HUD requirements. Commenters requesting or in support of a reevaluation for the FY 2022 FMRs stated that the proposed FMRs were not an accurate representation of their area's rental market. Many commenters stated that they would undertake a local rent survey as part of their request for reevaluation. Other commenters stated that prior rent surveys are no longer accurate predictors of rental prices in the market and that new data would more accurately reflect the current market. One commenter stated they did not have the resources to conduct a formal rent survey in line with HUD's requirements and submitted other data points instead. One commenter requested a reevaluation without any discussion of the market conditions in their jurisdiction or a discussion of rent survey data.

HUD Response: HUD published the list of areas requesting reevaluation on October 20, 2021, and the list of areas without a submission of rental market data on January 10, 2022. This notice provides the revised FMRs for areas that submitted survey data and concludes the FY 2022 FMR re-evaluation process.

III. Environmental Impact

This Notice involves establishment of a rate and does not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this Notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

____

Todd M. Richardson,
General Deputy Assistant Secretary,
Office of Policy Development and Research.

[**Billing Code-4210-67**]

[FR Doc. 2022-05040 Filed: 3/9/2022 8:45 am; Publication Date: 3/10/2022]